

HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

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W.P. No.23744 of 2007

7.11.2007

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Between

Pedabayalu Tribal Employees Welfare Association ..Petitioner
represented by its Secretary

AND

Agent to Government cum District Collector, ..Respondents
Vishakhapatnam and others

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:: JUDGMENT ::

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W.P. No.23744 of 2007

This writ petition which has been instituted by Pedabayalu Tribal Employees Welfare Association represented by its Secretary, seeks to call in question the inaction of the respondents in not initiating any action against the respondents 4 and 5 under the Andhra Pradesh Scheduled Areas Land Transfer Regulation Act, 1 of 1970 in view of the alienation of the immovable property that took place on 17.4.2002.

According to the learned counsel for the petitioner, Rule 7 of the Andhra Pradesh Scheduled Areas Land Transfer Regulation Rules, 1969 accords him the right to make a representation and therefore, the petitioner Association had submitted its representation on 26.9.2007 and followed it up with another representation on 29.10.2007 and since no action has promptly followed from the respondents 1 to 3, the present writ petition has been instituted. It is appropriate at this stage to notice the Rule 7 (1) which reads as under:

“Where the Agent, the Agency Divisional Officer, or the Officer referred to in sub rule 3 receives an application from any one interested, or information in writing by a public servant or has otherwise reason to believe that a transfer or immovable property has been made in contravention of

sub section 3, he shall give notice to any person in possession of the property claiming under the transfer, to show cause within the period specified in the notice, not being less than fifteen days from the date of its service why he should not be ejected, and property restored to the transferor or his heirs.

A reading of the above Rule unmistakably discloses that when the Agent to the Government or the Agency Divisional Officer or the Officer referred to under sub Rule (3) receives the application from any one interested the action contemplated thereunder has to follow. It is therefore manifestly clear that the application has got to be received from "any one interested". The writ petitioner is a Tribal Employees Welfare Association. There is no material on record to disclose as to whether it is a registered Association at all or not for it to have a juristic form or corporate soul, to have the capacity to sue. The objectives for which the said Association has been brought about either are not available on record. It does not even disclose for what reasons, it is espousing the cause for which action is contemplated under rule 7. Obviously, the writ petitioner is using the platform of this Court for scaring the respondents 4 and 5 make them to succumb to its wishes. Such attempts should not be allowed as it amounts to abuse of the process of this Court. This can be gazed from the fact that the transfer of land that had taken place on 17.4.2002 has not been objected to till the end of September, 2007 and for the first time, the objection is sought to be raised in the month of September, 2007 because of grant of permission for construction of a

building on the land in question. Unless the petitioner demonstrates its bonafides and that it falls within the four corners of the expression "person interested", it could not have complained of the inaction on the part of the respondents 1 to 3 either in not entertaining the representation said to have been submitted by it on 26.9.2007 for the first time or that the respondents 1 to 3 are not prompt in initiating the action required. This apart, there is no explanation anywhere as to why for over five and half years, the issue has not been raised. It leaves a suspicion that so long as the writ petitioner Association was kept in good humour by the respondents 4 and 5 either jointly or individually, the land transfer was not found to be objectionable but suddenly the land transfer has become objectionable in September, 2007. The writ petitioner has not disclosed any material about the sources of its funding and also the sources for it to spend on this litigation. One can reasonably infer that it had been receiving aid from some other sources and when prospects of receiving such aid is either receding or stopped, it is seeking to abuse the process of this Court. For these reasons, I consider that the writ petitioner Association cannot answer the description of "person interested" as spelt out in Rule 7 and hence, it cannot complain of the inaction on the part of the respondents in not initiating the action pursuant to its complaint dated 26.9.2007.

Even otherwise, it is not in dispute that the writ petitioner has submitted its representation for the first time on 26.9.2007. Hardly a month has passed by. It cannot complain of the inaction on the part of the respondents 1 to 3 for not having initiated any action in less than six weeks of time.

For all these reasons, the writ petition is devoid of merits and it is accordingly, dismissed at the admission stage. No costs.

NOOTY RAMAMOHANA RAO.J.

7.11.2007
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